IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO.19404 of 2004

Between:

1. Mudunuri Padmaraju, S/o. Satyanarayana Raju,
   D.No. 13-77, Near Watner Tank, Undi Village & Mandal,
   W.G.District.
2 Smt. Mudunuri Vijayalaxmi, W/o. M. Padmaraju,
   D.No. 13-77, Near Watner Tank, Undi Village & Mandal,
   W.G.District.

..... PETITIONERS

AND

1. The Estate Officer & Addl. Divisional Railway Manager, South Central Railway, Vijayawada.
2 The Mandal Revenue Officer, Undi Mandal, Undi, W.G.District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the Form B Notice No.B/W 274/1/Land dated 20.9.2004 issued by the Respondent No.1 and consequent action of the 1st respondent in threatening to evict the petitioners from house bearing No.13-77, Near Water Tank, Undi Village & Mandal, W.G.District as void, illegal, arbitrary, high handed and violative of Article 14 of the Constitution of India in violation of principles of natural justice and violative of the provisions of Public Premises (Eviction of Unauthorized Occupants) Act, and pass such other orders.

Counsel for the Petitioner:MR.POTTIGARI SRIDHAR REDDY

Counsel for the Respondent No.1: MR.K.S.MURTHY

Counsel for the Respondent No.2:GP FOR REVENUE

The Court at the admission stage made the following Order:

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.19404 OF 2004

ORDER:

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Questioning Form B Notice dated 20-09-2004 issued by the first respondent, the present writ petition is filed.

Learned counsel for the petitioner contended that the impugned notice is not issued as required under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1968 (for short 'the Act') and that the land in question does not belong to the railways and that the first respondent cannot invoke the provisions under the Act, and therefore, requests to quash the impugned notice.

Learned counsel representing the railways contended that an appeal lies against the impugned notice under Section 9 of the Act before the concerned District Judge and it is not a question of jurisdiction of the Estate Officer, who issued the impugned notice dated 20-09-2004, is challenged and hence, prays to dismiss the writ petition.

Under Section 9(2) of the Act, an appeal can be filed within fifteen days from the date of publication of the order under sub-section 1 of Section 9 of the Act and since the appellate authority has to decide the said appeal according to the provisions of the Act, no doubt, alternative remedy is not a bar for exercising jurisdiction under Article 226 of the Constitution of India, but the jurisdiction of the Estate Officer/Additional Divisional Railway Manager, South Central Railway is not under challenge, the writ petition is disposed of directing the petitioner to file an appeal before the competent authority as required under Section 9(2) of the Act. Till filing of such appeal, the respondents shall not take any coercive steps to evict the petitioner from the premises. No costs.

19..10..2004

usd

To

1. The Estate Officer & Additional Divisional Railway Manager, South Central Railway, Vijayawada.
2. The Mandal Revenue Officer, Undi Mandal, Undi, W.G.District.
3. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.